



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**RICHARD I. SAMUEL, ESQ.
GOODWIN PROCTER, LLP
820 EIGHTH AVENUE
NEW YORK NY 10018**

COPY MAILED

JUN 17 2008

OFFICE OF PETITIONS

In re Application of :
Hanisch et al. :
Application No. 09/931,638 : **ON PETITION**
Filed: August 16, 2001 :
Attorney Docket No. 050001 :

This is a decision on the petition under 37 CFR 1.181, filed January 5, 2007, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED as moot**.

The above-identified application was deemed abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed October 18, 2001. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application was deemed abandoned on December 19, 2001.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted copies of the return postcards, which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on January 10, 2002 of 1. Declaration signed by inventors; and 2. Certified Copy of German patent application; on January 22, 2002 of 1. Response in the form of a sequence listing. Additionally, petitioner has supplied a copy of the previously mailed correspondence, which bears a certificate of mailing date of November 6, 2001 and November 29, 2001.

The reply acknowledged as having been received in the USPTO on January 10, 2002 and January 22, 2002 (certificate of mailing dates of November 6, 2001 and November 29, 2001) is not of record in the application file and cannot be located, although it does appear on the jacket file list of contents. However, MPEP 503 states that "A post card receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the reply was timely received in the USPTO but was apparently lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. The \$750.00 petition fee submitted with the instant petition will be refunded to petitioner's credit card.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This matter is being referred to the Office of Patent Application Processing for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206. Any inquiries concerning the status thereafter should be directed to the Office of Patent Application Processing.



Liana Walsh
Petitions Examiner
Office of Petitions

cc:

BUCHANAN INGERSOLL & ROONEY PC
ONE OXFORD CENTRE
301 GRANT STREET, 20TH FLOOR
PITTSBURGH, PA 15219